THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.24080 OF 2005

Dt.14.11.2005

Between:

K.Kuberappa … Petitioner

And

The District Collector, Ananthapur,

Ananthapur District and 2 others. … Respondents

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner is a Fair Price Shop dealer of Lingamanahalli Village, D.Hirehal Mandal, Ananthapur District. It is stated that he has been distributing the essential commodities to the cardholders under Public Distribution Scheme without any complaint whatsoever and he never violated any of the conditions or the relevant Control Order. While so, the Mandal Revenue Officer, D.Hirehal Mandal, reported six irregularities said to have been committed by the petitioner in distribution of essential commodities to the cardholders of Lingamanahalli Village and accordingly the Revenue Divisional Officer, Dharmavaram, vide proceedings dated 29.3.2005 suspended the authorization of the petitioner.

A reading of the said suspension order goes to show that it is a final order made as a measure of punishment, but not pending enquiry. But, however, the petitioner was called upon to appear along with his explanation on 23.4.2005. Thereafter, the petitioner filed an appeal on 26.4.2005, which was dismissed by the Joint Collector, Anantapur on 24.7.2005 upholding the order of the suspension. The appellate authority while disposing of the said appeal directed not to appoint temporary dealer till the disposal of the case. Accordingly, the Revenue Divisional Officer, Dharmavaram issued the show cause notice dated 25.8.2005 to submit his explanation within seven days as to why action should not be taken for having committed six irregularities in distribution of essential commodities to the card holders. Thereafter, the petitioner submitted his explanation to the 2nd respondent. What action contemplated is not at all communicated to the petitioner so far. Admittedly, the authorization of the petitioner was suspended on 29.3.2005 and that suspension is continued till today. As per the judgment of the Division Bench of this Court in the case of *Joint Collector, Kurnool v. A.Neelima* wherein it was held that the suspension of authorization of a fair price shop dealer can be only for a period of 90 days. But, in the instant case, the suspension has been continued from 29.3.2005 till today i.e., nearly about seven months.

The learned Government Pleader for Civil Supplies submits that as per the judgment of another Division Bench of this Court in the case of *R.Sankar Naik v. R.Chowla Naik,* which was held that suspension pending enquiry, cannot be interfered with by this Court. While setting aside the order of the single Judge, the Division Bench directed the Joint Collector to hear and dispose of the appeal.

In the instant case, the dealership of the petitioner was suspended finally. Even the show cause notice dated 25.8.2005 does not disclose for what purpose it has been issued. It is not the case of suspension pending enquiry. But suspension has been made as a measure of punishment, which has been worked for more than seven months. Therefore, the suspension cannot be for an indefinite period.

Following the judgment of the Division Bench of this Court in the case o f *Joint Collector, Kurnool v. A.Neelima* (supra 1), the impugned proceedings of the 2nd respondent in Rc.No.754/2005/F dated 29.3.2005 is set aside.

Several orders have been brought to the notice of this Court where the suspension of fair price shop was made pending enquiry. But no action has been initiated for issuing show cause notice for cancellation of licence. Merely because appeals, revisions or writ petitions are pending against the order passed by the concerned Revenue Divisional Officer suspending dealership pending enquiry, the authorized officer cannot keep quiet months together without initiating any enquiry. Even if any appeals or revisions are pending against the orders of suspension, it is for the licensing authority to issue show cause notice and pass final orders in accordance with law.

The writ petition is disposed of accordingly. No costs.

(V.ESWARAIAH, J.)

14.11.2005

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